Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No. _____

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**In The**

**Supreme Court of the United States**

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**Nina and Mazen Shahin,**

**Petitioners**

**VS.**

**Delaware Federal Credit Union (Del-One),**

**Respondent**

---

**On Petition For Writ Of Certiorari**

**To The Supreme Court of Delaware**

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# PETITION FOR WRIT OF CERTIORARI

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**Nina and Mazen Shahin**

**In Pro Se Representation**

**103 Shinnecock Rd.**

**Dover, DE 19904**

**(302)678-1805**

## QUESTIONS PRESENTED FOR REVIEW

1. Did the Justice of the Peace Court # 16 of the Kent county of the state of Delaware violate the petitioners' constitutional rights of "due process" and "equal protection" guaranteed by the 14th Amendment to the US Constitution by failing to mail to them the defendant's response, denying them their right to question the witness they had subpoenaed to the court, as well as denying them the opportunity to confront, dispute and provide evidence contrary to every statement in the defendant's response?
2. Can the appellate court (Superior Court in this particular instance, that is the court of record and not of original jurisdiction) ignore the issues presented to that court by both parties including violation of constitutional rights, misread and misinterpret the record of the lower court whose decision had been appealed in a specific part only and then apply rules of law to that misinterpreted record and falsified facts?
3. Can each and every appellate court in the state of Delaware as well as the Court on the Judiciary ignore the issue of the constitutional rights violations raised by the petitioners as if it did not exist?

4. Were the different rules of law, legal and professional standards applied in this case at all levels of judicial process because the petitioners, who are former immigrants and now naturalized American citizens, represented themselves in a *pro se* representation?

5. Did the Delaware Supreme Court provided cover up for the petitioners' constitutional rights violations by dismissing their complaints against the judges of Justice of the Peace and the Court of Common Pleas filed in the Court on the Judiciary and against the attorney lodged with the Disciplinary Counsel (both organizations operate under its auspices) and granting Motion to Affirm that violated all the provisions of the Rules 25(a) of the Delaware Supreme Court Rules of Civil Procedure under which it had been filed?

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

## CORPORATE DISCLOSURE STATEMENT

Pursuant to the Supreme Court Rule 29.6 the petitioners state that they are not an incorporated entity or publicly traded company, nor are they a parent, subsidiary, or an affiliate of a publicly traded company, and, therefore, there is no publicly traded company owning 10% or more of the corporation's stock involved in this case on the part of the petitioners.

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**IN THE**

**SUPREME COURT OF THE UNITED SATES**

# PETITION FOR WRIT OF CERTIORARI

Petitioners respectfully pray that a writ of certiorari is issued to review the judgment below.

## OPINIONS BELOW

[x] For cases from **state courts:**

- The opinion of the Delaware Superior Court to review the merits appears at Appendix A to the petition and is unpublished.
- The transcript of hearing and the decision of the Court of Common Pleas of Kent County of Delaware on the respondent's Motion for Summary Judgment appears at Appendix B to the petition and is unpublished.
- The opinion of the Justice of the Peace Court No. 16 of the Kent County of the state of Delaware appears at Appendix C to the petition and is unpublished.

## JURISDICTION

[x] For cases from **state courts:**

The date on which the highest state court (Supreme Court of the state of Delaware) granted the Motion to Affirm was January 24, 2007. A copy of that decision appears at Appendix D.

[x] A timely petition for rehearing was thereafter denied on the following date: February 9, 2007 and a copy of the order denying rehearing appears at Appendix E.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. XIV[th] Amendment to the US Constitution

   Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. **No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of** life, liberty, or **property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.**

2. Regulation CC issued by the Board of Governors of the Federal Reserve System that adopted by that Regulation the EXPEDITED FUNDS AVAILABILITY ACT (EFA) enacted on August 10, 1987.

   Subpart B "Availability of Funds and Disclosure of Funds Availability Policies"

   § 229.12 "Availability Schedule"

**§ 229.12(b)**

**Local checks must be made available for check writing purposes by the second business day following deposit**

§ 229.21 "Civil Liability"

***Statutory Penalties***

Section 229.21(a) sets forth the statutory penalties that can be imposed as a result of a successful individual or class action suit brought for violations of Subpart B of the regulation. Basically, a bank could be held liable for:

- **Actual damages**
- **Not less than $ 100 nor more than $ 1,000 in the case of individual action;**
- The lesser of $ 500,000 or one percent of the net worth of the bank involved in the case of a class action; and/or
- **The costs of the action together with reasonable attorney's fees as determined by the court.**

3. State of Delaware Supreme Court Rules of Civil Procedures

Rules 25. Expedited Procedure

(a) Motion to affirm -- Within 10 days after service of appellant's opening brief, appellee may, in lieu of a brief, serve and file a

motion to affirm the judgment or order of the trial court. The motion shall not exceed four pages in length. The filing of the motion tolls the time for filing of appelee's brief. If there is more than one appellee in an appeal, the filing of a motion to affirm by one appellee tolls the time for filing of all the appellees' briefs. The sole ground for such motion shall be that it is manifest on the face of appellant's brief that the appeal is without merit because:

**(i)** Law settled. -- The issue on appeal is clearly **controlled by settled Delaware law;**

(ii) Factual issue.—The issue on appeal **is factual** and clearly **there is sufficient evidence to support** the jury verdict or **findings of fact below**; or

(iii) Exercise of discretion. -- The issue on appeal is one of judicial discretion and **clearly there was no abuse of discretion**. The motion to affirm shall state the ground or grounds on which it is based together with citation of authorities and record references to evidence relied upon. There shall be no briefing, argument or response to the motion, unless requested by the Court. If the motion to affirm shall be granted by unanimous action of a panel of the

Court an order or opinion will be entered and a mandate will issue thereon; if the motion shall not be unanimously granted, it shall be denied. If the motion shall be denied, the appellee's brief will be due within 20 days after such denial, and the appeal will proceed through briefing, scheduling and disposition as provided by these Rules. The motion to affirm shall be substantially in the form set forth in Official Form G. A motion to affirm shall not be accompanied by a proposed form of order.

**All highlights are made by the Petitioners**

## STATEMENT OF THE CASE

- Petitioners, Mazen and Nina Shahin, filed a civil debt action lawsuit in the Justice of the Peace Court No. 16 of Kent county of the state of Delaware on June 28, 2005 against the Delaware Federal Credit Union (DEFCU), presently called Del-One, after its employee misclassified a local check as nonlocal and the Credit Union denied the petitioners timely access to their funds in violation of the 12 CFR 229.12(b), charged their account $ 35.00 of Non Sufficient Funds (NSF) fee that was not restored to the petitioners' account until after the JP Court mandated them to do so at the court hearing on September 6, 2005[1]. The judge of the JP Court, Pamela Darling, determined in the court that the NSF fee of $ 35.00 (the debt) was still owed and not paid for more than two months but dismissed the case with prejudice on the respondent's promise to pay denying the petitioners' the statutory penalties they were entitled to under 12 CFR 229.21. Although the judge ruled on $ 35.00 of NSF fees in the petitioners' favor[2], dismissal of the case with prejudice and the denial of statutory penalties were based on the facts that the

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[1] DEFCU deposit slip at Appendix G, deposit time 3:12pm.

[2] Appendix C, page 1.

respondent claimed in their response to the petitioners' lawsuit. That response was not mailed to the petitioners neither by the court nor by the respondent, they did not know its content during the court hearing on September 6, 2005, and the discussion of the facts mentioned in that response was limited only to the judge and the respondent. The petitioners were not allowed to speak, their request to question a witness they had subpoenaed[3] to the court was denied, and their attempts to dispute facts claimed by the respondent were suppressed by the judge.

- On September 21, 2005 the petitioners filed an appeal at the Court of Common Pleas of Kent County of the state of Delaware seeking the statutory damages denied to them by the JP court to which they were entitled to as a matter of federal law since the $ 35.00 of NSF charge was paid to their account three hours after the court decision on September 6, 2005 that the judge delivered at approximately 1:15pm[4]. On November 18, 2005 the attorney for the respondent filed a Motion for Summary Judgment attaching to the Motion a notarized copy of the DE FCU properly sworn employee's affidavit

[3] Appendix C, end of entry # 2, page 2.

[4] Ibid, entry # 7, page 3 (time of scheduled hearing was 1:00 pm).

with falsified facts to greater degree than those that had been presented to the JP Court.[5] Ridiculous and false claim that the petitioners refused the payment of NSF fee in JP Court was added. Although the issue of perjury (or making false statements of facts in written, notarized form of sworn affidavit to court as evidence) and gross violations of the petitioners' constitutional rights were raised in the court papers filed in the Court of Common Pleas as well as during hearing on Motion for Summary Judgment[6], the presiding judge, Merrill C. Trader, granted the motion on the fact that the $ 35.00 of NSF had been paid before the hearing on the Motion held on December 21, 2005, fact completely irrelevant to the petitioners' claim on appeal for statutory damages after the fact of violation of Regulation CC had been established in JP Court.

- On January 11, 2006, the petitioners filed an appeal in the Delaware Superior Court under 10 *Del.C.* 542 (a) that gives "full power and authority" to the Superior Court "to examine, correct and punish the

[5] Motion for Summary Judgment at Appendix F. Note, that the Affidavit attached to the Motion is signed by the same compliance officer (Reneé Thompson) as the note to the deposit slip in reference 1 above.

[6] Appendix B, page 11 and 15.

contempts, omissions, neglects, favors, corruptions and defaults of ***all justices of the peace*** (emphasis is added by the petitioners), sheriffs, coroners, clerks and other officers, within this State". In their opening brief the petitioners raised four issues for the Superior Court to consider including the detailed analysis of all elements of the "due process" and "equal protection" that is presented in the following section of "Reasons for Granting Writ of Certiorari". Although in the Court of Common Pleas the attorney for the respondent said "quite frankly the fact that the $ 35 has been paid since September of 2005, clearly the case is over at that point, and her ability to get court costs, and interest, we would respectfully argue is moot at this point"[7] in his answering brief made a false claim that the petitioners were seeking on appeal both $ 35 of NSF fees and damages and, therefore, they do not have a claim upon which a relief can be granted since $ 35.00 had already been paid. That claim was made in violation of requirement of canon 3.1 of the Delaware Lawyers' Rules of Professional Conduct that does not allow attorneys make frivolous or unsubstantiated claims. In the Court of Common Pleas he made false statement of fact regarding

[7] Appendix B, page 4.

respondent's offer to pay in violations of requirement of canon 3.3(a)(1) of the Delaware Lawyers' Rules of Professional Conduct that does not allow attorneys make false statements of fact. When he claimed that the petitioners had a "moot" claim for damages he failed to disclose the mandatory statutory damages imposed by the 12 CFR 229.21, the obligation he had under requirement of canon 3.3(a)(2) of the Delaware Lawyers' Rules of Professional Conduct. In the petitioners' reply brief they raised an additional issue of the attorney's violations of rules of professional conduct. Judge of the Superior Court, Robert R. Young, ignored all the issues presented to him by both parties and made the following determination: "The Magistrate held in favor of DFCU after learning that DFCU credited the Shahin's account for $ 35 NSF".[8] As a matter of fact, the decision of the Justice of the Peace Court was completely opposite: "On September 6, 2005 judgment by trial was entered by Justice of the Peace Court No. 16 in favor of Nina Mazen Shahin and against DE Federal Credit Union for $ 35.00"[9] So, the judge of the Superior

[8] Appendix A, page 2.

[9] Appendix C, page 1.

court by his decision denied the fact of violation of Regulation CC established by the JP Court.

Although the judge had an obligation to state the evidence he relied upon in reaching that conclusion his reference was not made to the only source that the reference can be made to in this case – the decision of the JP Court itself, but to some foggy claim that the payment was made on the day of the JP Court hearing of unknown origin but very similar to the claim repeatedly made by the respondent's attorney. The judge also claimed that the Court of Common Pleas presented the petitioners an opportunity of hearing *de novo* review of their original claim for $ 35.00 of NSF fee. The scope of hearing on Summary Judgment, as he himself correctly indicated, was supposed to be on "genuine issues of fact" not the hearing *de novo* on one selectively chosen issue that had no relevance to the essential facts disputed by the parties and never proven in court. The fact of violation of Regulation CC was acknowledged by the defendant as an "error". At that stage of the judicial process the fact of payment of $ 35.00 became irrelevant because at the time the decision of the JP Court was rendered the $ 35.00 of NSF fee had not been paid for more than two months in

fragrant violation of the federal law, the fact clearly established in the decision of the JP Court and the petitioners were entitled to statutory damages as a matter of law and that was the sole issue of their appeal claim along with the facts on basis of which those statutory damages were denied. The respondent presented their version of these facts in their Motion for Summary Judgment[10] accompanied by a written and sworn affidavit; the petitioners presented theirs in their Motion To Deny Summary Judgment and the consideration of those facts was supposed to be the matter of hearing on the Motion for Summary Judgment. Judge of the Superior Court failed to notice all these discrepancies although apparent in the transcript of the hearing and the decision of the Court of Common Pleas. He also failed to address the issue of the petitioners' constitutional rights violations presented and analyzed in detail in their opening brief.

- On September 1, 2006, petitioners filed an appeal to the Supreme Court of Delaware making a detailed analysis of violations of their constitutional rights in their opening brief, the gross misinterpretation of the facts and the decision of the JP Court by the

[10] Attachment F and also reference # 5 above.

Superior Court judge and raising questions of abuse of judicial discretion by the judges of JP Court and the Court of Common Pleas. On November 20, 2006, the attorney for the respondent filed a Motion to Affirm under the Delaware Supreme Court Rule of Civil Procedure 25(a). The provisions of that rule are presented verbatim in the section On Constitutional and Statutory Provisions of this Petition and bar filing of the Motion with specifics of the petitioners' case. In § 25(a)(i) it is stated that the case should involve the "settled Delaware law". Although the attorney mentioned in his Motion the "settled Delaware law" he did not make any specific references to any such a law, case, regulation, rule, or anything of like kind, when, as a matter of fact, such a "settled DE law" is the Delaware Constitution that incorporated Uniform Commercial Code in Title 6 of the Constitution, in Article 3 defined Negotiable Instruments and in Article 4 of the Title 6 regulated bank deposits and collections. In Article 3, **§ 3-103 Definitions** of the DE Constitution the standard of "ordinary care" is defined "in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which the person is located, with respect to the business in

which the person is engaged." The standard of "ordinary care" so defined was violated by the DEFCU. In Article 4, **§ 4-103(a) Variation by agreement; measure of damages; action constituting ordinary care** the Delaware Code in subsection (a) states that "The effect of the provision of this Article may be varied by agreement, but the parties to the agreement cannot disclaim a bank's responsibility for its lack of good faith or failure to exercise ordinary care or limit the measure of damages for the lack or failure". Standard of "good faith" is not defined in DE Code but is defined in §229.2(z)(5)(nn) of Regulation CC as "honesty in fact and observance of reasonable commercial standards of fair dealing". DEFCU violated the standards of "ordinary care" as defined in the DE Code and of "good faith" as defined in federal Regulation CC. The remaining provisions of (ii) and (iii) of the Supreme Court Rule of Civil Procedure 25(a) were violated because the petitioners' in their opening brief specifically raised the issues of falsified facts by the Superior Court and the abuse of discretion by judges of JP Court and the Court of Common Pleas but the Supreme Court of Delaware affirmed that Motion on January 24, 2007.[11]

[11] Appendix D.

- On January 29, 2007, the petitioners filed a Motion for Rehearing but the Supreme Court found it meritless on 2/9/2007[12].

[12] Appendix E.

## REASONS FOR GRANTING THE PETITION

1. Supreme Court of the United States is the court of last resort in defending constitutional rights violated by other courts especially the constitutional rights of "due process" and "equal protection" that are supposed to guarantee the fairness and evenhandedness of the US judicial process to everybody.

- Definitions of "due process" and "equal protection" of the Fourteenth Amendment to the Constitution of the United States that were developed over the years by courts established, as necessary prerequisites, 7 elements necessary to determine whether the violation of those rights occur, five of which apply to the petitioners' case: 1. Notice, 2. Hearing, 3. Impartial Tribunal, 4. Confrontation and Cross-Examination, 6. Decision on Record. The fifth and seventh elements of Discovery and Counsel respectively do not apply to this case, and, therefore, are not analyzed here. The substantial, if not exclusive, contribution to the development of the definitions of those elements belongs to the Supreme Court of the United States. "Procedural due process rules are meant to protect persons not from the deprivation, but from the ***mistaken or unjustified*** deprivation of life, liberty, or property" (emphasis

added by the petitioners), *Carey v. Piphus*, 435 U.S. 247, 259 (1978). Since petitioners' case is related to a debt claim which is a claim for property (money is considered property) the analysis of the requirements developed by case law that follows is relevant in regard to the last of those three pillars (life, liberty and **property**) for the protection of which the "due process" and "equal protection" clauses of the Fourteenth Amendment are specifically intended.

1. Notice "An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them ***an opportunity to present their objections***", (emphasis added by the petitioners) *Mullane v. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). See also *Richards v. Jefferson County*, 116 S. Ct. 1761 (1996) (*Res Judicata* may not apply where taxpayer who challenged a county's occupation tax was not informed of prior case and where taxpayer interests were not adequately protected). "The notice must be sufficient to enable the recipient to determine what is being proposed and what he must do to prevent the deprivation of his interest", *Goldberg v. Kelly*, 397 U.S. 254, 267-268 (1970).

Ordinarily, service of the notice must be reasonably structured to assure that the person to whom it is directed ***receives it*** (emphasis added by the petitioners), *Armstrong v. Manzo,* 380 U.S. 545, 550 (1965); *Robinson v. Hanrahan,* 409 U.S. 38 (1974); *Green v. Lindsey,* 456 U.S. 444 (1982). **We, the petitioners, were denied a proper notice of the respondent's response to the JP Court and the opportunity to prepare adequately to prove that all claims made in that response were false. Neither the JP Court nor the respondent bothered to mail to the petitioners the respondent's response to the lawsuit initiated by the petitioners.**

2. Hearing "Some form of hearing is required before an individual is finally deprived of a property interest", *Mathews v. Eldridge,* 424 U.S. 319, 333 (1976). ***"Parties whose rights are to be affected are entitled to be heard"*** (emphasis added by the petitioners), *Baldwin v. Hale, 68 U.S. (1 Wall.) 223, 233 (1863).* **The petitioners were deprived of any meaningful hearing in both courts: in JP Court they were not allowed to speak at all, in Court of Common Pleas the petitioner was not allowed to complete a sentence, was dismissed as perceived to be insincere, incorrect or**

**incompetent on a sole ground that she was a woman, a foreign-born, and *pro se.***

3. Impartial Tribunal Just as in criminal and quasi-criminal cases (*Tumey v. Ohio,* 273 U.S. 510 (1927) "an impartial decision maker" is an "essential" right in civil proceedings as well (*Goldberg v. Kelly,* ibid above, pages 254, 271). "The neutrality requirement helps to guarantee that life, liberty, or property will not be taken ***on the basis of an erroneous or distorted conception of the facts or the law...***(emphasis added by the petitioners) At the same time, it preserves both the appearance and reality of fairness... by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him", (*Marshall v. Jerico, 446 U.S. 238, 242 (1980)).* **In the JP Court the petitioners were not allowed to speak let alone present any evidence and were denied the right to question a witness they had subpoenaed to the court to disprove facts alleged by the respondent.** In the Court of Common Pleas the judge accepted false statements of fact made by the attorney (for example, "Essentially, what happened is the defendant came into court, told the Court that they were willing to

credit the plaintiffs' account in the amount of $ 35, which had been refused by plaintiff, and then based upon that statement, the Court essentially found, or dismissed it with prejudice...".[13] But when the petitioner mentioned in that court that "We have the right to present, because what the Judge claim, and what the defendant-appellee claim is not true..." the dismissive answer of the judge was, "Well, you did present your case, he just ruled against you".[14] **The petitioners were denied the opportunity to present their evidence in either JP Court or the Court of Common Pleas because of apparent biases.**

4. Confrontation and Cross-Examination "In almost every setting where important decisions turn on question of fact, due process requires an opportunity to confront and cross-examine adverse witnesses" (*Goldberg v. Kelly,* Ibid above, pages 254, 269). Where the "evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or person motivated by malice, vindictiveness, intolerance, prejudice, or jealousy, the individual's right to show that it is untrue depends on the right of confrontation and cross-examination" (*Green v. McElroy,* 360 U.S. 474, 496 (1959). **The petitioners were intentionally**

[13] Appendix B, page 7.

[14] Ibid, page 11.

**deprived of that opportunity in the JP Court and were not given that opportunity in the Court of Common Pleas and as a result were deprived of statutory damages based bias on perjury.**

6. Decision on the Record "The decisionmaker's conclusions as to a recipients' eligibility must rest solely on the legal rules and evidence adduced at the hearing...To demonstrate compliance with this elementary requirement, the decisionmaker should state the reason for his determination and indicate ***the evidence he relied on ...***" (emphasis is added by the petitioners) *(Goldberg v. Kelly,* 397, Ibid, 254,271). The judge of the JP court stated the reasons for denying the petitioners the statutory damages and dismissal with prejudice as lack of notice to the respondent of the mistake committed by its employee and their offer to pay that had been allegedly refused by the petitioners[15]. None of these facts was proven in her court but accepted without any proof or cross-examination although all these claim were false statements of fact. One of the petitioners met with the manager of the branch immediately after receiving the first NSF Notice around June 23, 2005, asked her to look into the issue and provide a copy of the check that caused the overdraw. The manager,

[15] Appendix C, entry # 9, page 3.

Lisa Brewer, had refused to look into the issue but promised to call back and inform of the cost of getting a copy but she never called back. When the petitioners obtained a second NSF Notice they informed the teller of the branch by name Danielle Johnson on June 28, 2005 of the mistake but she sarcastically dismissed the notice laughing into the petitioner's face. In these circumstances nothing petitioners could do more to provide any further notice or change the employees' attitudes but to file a lawsuit. As far as the second reason of offering to pay is concerned, the petitioners could not believe that any reasonable person, let alone a judge or the attorney who were supposed to have a legal mind, could make and repeat such a claim. The respondent violated the federal law and had no any right of "offer to pay" but an unconditional obligation to pay the erroneously taken amount as soon as they learned about the mistake but they did not. They did not pay the amount for more than two months knowingly and intentionally violating federal law for all that period. Their "offer to pay" was actually an aggravated harassment as a result of which one of the petitioners was rushed to an emergency room with a high blood pressure. **But the petitioners were never allowed to present this evidence and have a court listen and accept it.**

2. The Delaware Superior Court is a court of record which means that it examines the records of previous courts. Instead, the court falsified the facts that established the violation of federal law and the JP Court ruling on that point in favor of the petitioners that were reflected in the record of the JP Court decision. The Superior Court ignored 4 issues presented to it by the petitioners in their Opening Brief, one false statement of fact on which the attorney for the respondent based his entire legal argument in his Answering Brief, and emphasis of that fact in the petitioners' Reply Brief. That attitude of the court contradicts the basic premise of the system of justice where the court decides on the issues presented to it for a decision but not misinterprets facts that are not even in dispute between the parties but which the court does not like. There is no document or statement in existence in which respondent claimed that the NSF fee had been paid to the petitioners' account before the JP court hearing on 9/6/2005. The claim that the NSF fee was paid on 9/6/2005 does not mean that it was paid before the court hearing but the Superior Court makes such an inference of fact without any basis for the conclusion. The same court also denied the petitioners access to the tape of the

Court of Common Pleas hearing that contained in the transcript unauthorized addition, mistakes and omissions.

3. Petitioners believe that if they were represented by an attorney they would not have been gagged and dismissed in courts as they were and would not have been denied the basic constitutional rights of "due process" and "equal protection" and the attorney would not allowed himself to make false statements of fact in different courts or to file unsubstantiated, frivolous claims and file motions in violation of court rules. As a result, perjury was not prosecuted but gratified in the decisions of the courts at all levels.

4. On 08/14/2006 the petitioner filed a complaint with the Court on the Judiciary against the judges of the JP Court and Court of Common Pleas on violation of their constitutional rights. On 10/16/2006 the petitioner received a dismissal of their complaint in which it was written: "It is clear from the face of the complaint that the allegation of judicial misconduct (a) stem from the Complainant's disagreement or dissatisfaction with the judicial officers' legal rulings; (b) do not allege judicial misconduct; or (iii) allege judicial misconduct in a conclusory or conjectural fashion that does not invoke the jurisdiction of the Court on the

Judiciary. Where the Complainant suggests that either Judge Trader or Judge Darling abused the court's discretion, erred during the courts' proceedings, or erred in the disposition of her case, the Complainant's claim were, or could have been, subject to appellate review". On 04/25/2006 the petitioner filed a complaint against the attorney with the Delaware Disciplinary Counsel. The response dated 05/01/2006 that the petitioner received stated the following: "This Office has carefully reviewed your complaint and its attachments. The allegations you have raised in your complaint concerning Mr. Morris relate to matters in dispute in pending litigation. When allegations of lawyer misconduct relate to matters that already have been presented to or are not pending before a court, this Office does not usurp the court's fact finding or legal analysis of those issues. If the court believes that the record in a matter or a lawyer's conduct in a matter before the court raises issues of ethical misconduct that should be investigated by this Office, the court can refer those issues to this Office. Based upon the foregoing, this file is now closed. ... Please be aware that pursuant to Procedural Rules 13 and 25, all records and proceedings in this matter are private and confidential

and are not subject to production in any later proceedings before any tribunal". With no any meaningful enforcement mechanism for rules of professional conduct in the state of Delaware for judges and the attorney, the attorney proceeded to file his Motion to Affirm with the Delaware Supreme Court in response to the petitioners' Opening Brief to which he had no any argument left to present, so he filed the Motion to Affirm in violation of all three stipulations under which the Motion can be filed. Moreover, when the Supreme Court affirmed the Motion the petitioners contend that the Court provided cover up to the attorney and the judges who violated their respective rules of professional conduct (either very specific or general rules of professional honesty, integrity, impartiality and fairness).

## CONCLUSION

In view of gross of violations of the basic constitutional rights of "due process' and "equal protection", provisions of the Expedited Funds Availability Act (Regulation CC) at two Delaware courts where hearing was supposed to be fair to both parties but it was not, complete disregard of those violations by the Superior and Supreme Courts of Delaware as well as local rules of civil procedures and professional standards for judges and the attorney alike which demonstrated serious biases in Delaware judicial system as a whole towards people of foreign origin as a class, *pro se* representatives as a class or both without any meaningful mechanism for enforcement of ethical rules this petition for writ of certiorari should be granted.

Respectfully submitted,

**Mazen Shahin**

**Nina Shahin**

**Date:** 3/26/2007

# APPPENDICES

APPENDICES

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

NINA and MAZEN SHAHIN, :

Appellants, : C.A. NO. 06A-01-004

v. :

DELAWARE FEDERAL :
CREDIT UNION, :

Appelle.

Submitted: May 2, 2006
Decided: August 3, 2006

Nina and Mazen Shahin, *pro se.*

Gregory A. Morris, Esq., Liguori, Morris & Yiengst, Dover, Delaware for Appellant.

*OPINION*

UPON CONSIDERATION OF APPELLANT'S APPEAL FROM FROM COURT OF COMMON PLEAS
**DENIED**

Young, Judge

*Shahin v. Delaware Federal Credit Union*
C.A. No: 05C-08-037
August 3, 2006

Appellants, Nina and Mazen Shahin, bring the present appeal from a decision of the Court of Common Pleas, which granted summary judgment to appellee, Delaware Federal Credit Union ("DFCU"). This case is a debt action, which originated in the Justice of the Peace Court, and was appealed to the Court of Common Pleas. In both of the proceedings below, the Court found in favor of DFCU. For the following reasons, the Shahins' appeal is **DENIED.**

## FACTUAL AND PROCEDURAL HISTORY

The Shahins initiated their claims against DFCU in the Justice of the Peace Court, seeking reimbursement for a $ 35.00 fee assessed to their account for insufficient funds ("NSF fee"). The Magistrate held in favor of DFCU after learning that DFCU credited the Shahins' account for the $ 35.00 NSF fee.[1] The Shahins appealed the

[1] DFCU admits that it assessed the Shahins the $ 35.00 NSF fee in error. The parties dispute whether the Shahins advised DFCU directly of the error. DFCU claims it did not learn of the problem until they were served with the JP Court complaint. DFCU credited the Shahins account for the NSF fee on the day of the JP Court hearing.

Magistrate's decision to the Court of Common Pleas, which granted DFCU's motion for summary judgment. The Shahins made a timely appeal of the decision of the Court of Common Pleas to this Court on January 11, 2006.[2]

In preparation for the Superior Court appeal, the Shahins obtained a copy of the transcript of the proceedings in the Court of Common Pleas, and complained that the transcript contained errors.[3] The Court of Common Pleas denied the Shahins' request to review the tape of December 21, 2005 hearing and submit corrections of the transcript errors. The Shahins filed a similar motion with this Court, seeking to review the tape and correct the hearing transcript. At oral argument on March 3, 2006, this Court considered the Shahins'

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[2] 10 Del.C. § 1326(b).

[3] Record of the parties' oral argument before the Court of Common Pleas on the summary judgment motion was recorded by Court of Common Pleas Reporter Linda Lavender. An audiotape of the proceeding was also prepared. The Shahins argue that the transcript contains mistakes, omissions, and unauthorized additions.

motion as an appeal of the Court of Common Pleas decision, and denied their request.

The Shahins now present their brief in support of their appeal of the decision of the Court of Common Pleas on DFCU's motion for summary judgment.

## STANDARD OF REVIEW

When considering an appeal from the Court of Common Pleas, this Court's function is similar to that of the Delaware Supreme Court.[4] "In reviewing appeals from the Court of Common Pleas, the Superior Court must limit its scope of review to correcting errors of law and ascertaining whether the trial judge's factual findings 'are adequately supported by the record and are the product of an orderly and logical deductive process.'"[5] This Court must accept any

[4] *Baker v. Connell,* 488 A.2d 1303, 1309 (Del. 1985).

[5] *Romain v. State Farm Mutual Auto. Ins. Co.,* 1999 WL 1427801, at *1 (Del. Super.)(citing *Wyatt v. Motorola, Inc.,* 1994 WL 714006, at *2(Del. Super.)).

decision of the Court of Common Pleas that is supported by sufficient evidence.[6] However, when reviewing a summary judgment decision on appeal, "the applicable standard requires that this Court examine the record below *de novo* to determine whether the court below correctly applied the applicable legal principles."[7]

## DISCUSSION

The Shahins make several arguments about the propriety of the proceedings, not only at the hearing in the Court of Common Pleas, but also in the Justice of the Peace Court. The scope of this Court's review is limited to the issues the parties raised at trial, and this Court will not hear issues the parties did not raise and address before the lower court.[8]

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[6] *Levitt v. Bouvier,* 287 A.2d 671, 673 (Del. 1972); *Wilson v. Klabe Construction Co.,* 2004 WL 1732217, at *2(Del. Super.).

[7] *Baldwin v. Conner,* 1999 WL 74327, at *2(Del. Super.)(*citing Hoechst Celanese Corp. v. Certain Underwriters at Lloyds,* 656 A.2d 1094, 1098 (Del. 1995)).

[8] *Pringle v. Atlantic Millwork,* 1998 WL 47275, at *4(Del. Super.)(*citing Wilmington Trust Co. v. Conner,* 415 A.2d 773 (Del. 1980)).

Summary judgment should be rendered if the record shows that there is no genuine issues as to any material fact, and the moving party is entitled to judgment as a matter of law.[9] The facts must be viewed in the light most favorable to the non-moving party.[10] Summary judgment may not be granted if the record indicates that a material fact is in dispute, or if it seems desirable to inquire more thoroughly into the facts in order to clarify the application of the law to the circumstances.[11] However, when the facts permit a reasonable person to draw but one inference, the question becomes one for decision as a matter of law.[12]

In the Court of Common Pleas appeal, which was a *de novo* proceeding, DFCU argued that the Shahins' claim was without merit, because the $ 35.00 NSF fee had been credited to the Shahins' account. In fact, there was no dispute that the Shahins had been

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[9] Super. Ct. Civ. R. 56(c).

[10] *Guy v. Judicial Nominating Comm'n*, 659 A.2d 777, 780 (Del. Super. Ct. 1995).

[11] *Ebersole v. Lowengrub*, 180 A.2d 467, 468-69 (Del. 1967).

[12] *Wootten v. Kiger*, 226 A.2d 238, 239 (Del. 1967).

reimbursed for the improperly assessed NSF fee.[13] The record shows that DFCU credited the Shahins account on September 6, 2005, the day of the Justice of the Peace hearing. However, the Shahins argue that they are entitled to interest and court costs. The Court of Common Pleas denied their claim, however, ruling that interest costs cannot be awarded when there is no claim upon which relief can be granted.

The Court of Common Pleas did not err in determining that no genuine issue of material fact existed as to the Shahins' claim that

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[13] Court of Common Pleas transcript at 8

THE COURT: Well, you sued for $ 35; they credited the $ 35 in the court below, didn't they?

MS SHAHIN: The credited only for 35 after the Court, after this hearing, not before.

*****

THE COURT: But, before you came here they credit it?

MS SHAHIN: No. Oh, before I came here?

THE COURT: Yes.

MS SHAHIN: Yes.

DFCU owed them $ 35.00 for the NSF fee, because the evidence shows that the Shahins received reimbursement. There is no dispute that the Shahins were paid; therefore, summary judgment was appropriate. Having determined that DFCU is entitled to judgment as a matter of law, the Shahins' claim for interest and costs cannot be considered.

Finally, the Shahins complain, *inter alia*, that they were not afforded due process, because the Justice of the Peace Magistrate engaged in *ex parte* communications with DFCU.[14] The Shahins also complain that their due process rights were violated by the Court of Common Pleas, because their claims were not considered *de novo*. The Shahins' claim that the Court of Common Pleas proceeding was

[14] The Shahins were not served with a copy of DFCU's answer to the complaint in the Justice of the Peace action. At the hearing before the Magistrate, the Shahins complained that the Justice of the Peace Court should have taken the initiative and served them with DFCU's answer. Because the Court received DFCU's answer, but the Shahins did not, the Shahins accused the Court of engaging in *ex parte* communications with DFCU.

not a *de novo* review is without merit. The record of the proceedings in the Court of Common Pleas is clear that the Shahins did receive a *de novo* review of their original claim for the $ 35 NSF fee. The hearing on the motion for summary judgment focused on the Shahins' original complaint. Ironically, the Shahins arguments about the propriety of the proceedings in the Justice of the Peace action contradict their wish for a *de novo* review and are inappropriate.

**CONCLUSION**

For the reasons stated above, the Shahins' Appeal from Defendants' Motion for Summary Judgment is **DENIED.**

**"/s/ Robert B. Young"**
**J.**

RBY/sal
oc: Prothonotary
cc: Opinion Distribution

IN THE COURT OF COMMON PLEAS FOR THE STATE OF

DELAWARE IN AND FOR KENT COUNTY

| | | |
|---|---|---|
| MAZEN SHAHIN, and<br>NINA SHAHIN, | ) | Civil Action Number<br>05-09-0074AP |
| Plaintiffs/Appellants, | ) | |
| vs. | ) | |
| DELAWARE FEDERAL<br>CREDIT UNION, | ) | |
| Defendant/Appellee, | ) | December 21, 2005 |

- - - - -

BEFORE:

HONORABLE MERRILL C. TRADER

- - - - -

APPEARANCES:

NINA SHAHIN
*Pro se.*

GREGORY A. MORRIS, ESQUIRE
on behalf of the Defendant.

LINDA A. LAVENDER
Official Court Reporter

**STAMP**
"COPY"

Present: As noted.

THE COURT: All right. This is the time, or it's a little past the time, that we scheduled a hearing on a motion for summary judgment.

How do you pronounce your name?

MS. SHAHIN: Shahin, Nina Shahin.

THE COURT: Nina Shahin, and Mazen Shahin versus...

MS. SHAHIN: Shahin, just Shahin.

THE COURT: Shahin vs. Delaware Federal Credit Union. It looks like there are two cases, and it looks like one case there was a judgment entered for $ 35 and another case a judgment was entered on behalf of the defendant.

I suppose there's been some confusion, and that the end result of the case was judgment for the defendant. Is that right, Mr. Morris?

MR. MORRIS: Yeah, that's correct, Your Honor, and the motion I filed only deals with the one case, the other one just came up just recently.

THE COURT: Well, it should really cover both; do you ask it cover both?

MR. MORRIS: It could essentially, Your Honor. I mean both, essentially both decisions were on behalf of the Delaware Federal Credit Union. It was all concerning this $ 35 payment, which actually the Delaware Federal Credit Union made back on September 6, 2005, which credited the account. In fact…

THE COURT: Did the Magistrate first make one decision and then later on he made a different decision?

MR. MORRIS: Well, no, there were two separate cases filed.

THE COURT: There were two cases?

MR. MORRIS: They're two separate cases, at least, and she can correct me if I'm wrong, but there were two separate cases filed.

THE COURT: I see.

MR. MORRIS: The first one, which I filed the motion for summary judgment on, was actually a defendant's verdict in

one respect, and a plaintiffs' verdict in the other respect. Essentially what happened is the defendant came into court, told the Court that they were willing to credit the plaintiffs' account in the amount of $ 35, which had been refused by plaintiffs, and then based upon that statement, the Court essentially initially found, or dismissed it with prejudice, but the docket sheet seems to indicate they entered judgment for $ 35 for the plaintiffs without court costs, and interest.

It was at that point that the plaintiffs then appealed to this court. Quite frankly the fact that the $ 35 has been paid since September of 2005, clearly the case is over at that point, and her ability to get court costs, and interest, we would respectfully argue is moot at this point.

The second case I did not file the motion on, because it just came up, so I feel I little unprepared to deal with that one at this point, because I don't know all one hundred percent of the facts, because I didn't represent Delaware Credit Union at either one, at the court below; I've just been taking the cases up once they've been appealed, but

at least as to the one at this point, feel that there is no action whatsoever, because...

THE COURT: Okay. Now, the one that...

MS SHAHIN: Your Honor, can I now correct, and add?

THE COURT: Just let me finish with counsel for a minute, then I'll let you make some kind of statement, or argument. Well, the October 17th judgment in favor of Dover Federal Credit Union against the plaintiffs that is the case that apparently your motion does not cover?

MR. MORRIS: That is correct, Your Honor. The one I...

THE COURT: And you do not want to cover it?

MR. MORRIS: Well, again, I didn't even bring that file with me when I filed this motion, in fact. So I don't have it in front of me, but maybe if I could ask the Credit Union.

(PAUSE).

MR. MORRIS: It's my understanding, Your Honor, they're two separate matters.

The court: They're two separate matters?

MR. MORRIS: Two separate matters, even...

MS. SHAHIN: It's the same matter, two separate incidents.

MR. MORRIS: Two separate incidents, so I respectfully submit that probably my motion will not be able to address the second one today unfortunately.

THE COURT: But, doesn't it involve the $ 35 fee?

MR. MORRIS: Yeah, but I think they may have sued for a little bit more, because there was an extended hold, and the first $ 100 of the thing would have gone to the account, so they weren't just suing for the $ 35 I don't believe, and may be she can correct me if I'm wrong in that regards, but I think, they're two separate issues.

THE COURT: The complaint states exactly...well, no, it's a little different.

MR. MORRIS: It's a little different, Your Honor, it's the...

THE COURT: All right. Okay. Tell me what you want to tell me about your motion for summary judgment, and this is the case.

MS SHAHIN: Now?

THE COURT: No, the defense attorney goes first, he

hadn't made an argument yet.

MR. MORRIS: Your Honor, I think, my motion speaks for itself. Essentially what the plaintiffs did, they filed an action against the Delaware Federal Credit Union, for $ 35, court costs, and interest as a result of it was a hold put on a check, and as such they were debited $ 35, or they were charged $35.

When Delaware Federal Credit Union agreed to reimburse them the $ 35 when they realized the error, it was refused by plaintiffs. However, when the Court was informed of that, that the Delaware Federal Credit Union was willing to credit their account for $ 35, that's when the Court found essentially in favor of the defendant at that point, and in fact $ 35 was placed on their account on September 6, 2005 which was the very day they were in court.

THE COURT: Well, this is the case where the judgment was entered in their behalf?

MR. MORRIS: Correct.

THE COURT: For $ 35

MR. MORRIS: Well, Your Honor, it's really bizarre...

THE COURT: That's what the transcript...

MR. MORRIS:...because if you look at the docket sheet, and the judgment itself, and I think I've attached this one. Essentially what it said is a debt action...this is the notice of action which is signed by the Justice of the Peace Court, it's not the docket sheets, it's September 6th, 2005, a debt action is filed when a party owes money, refused or does not pay.

In this case, the defendant was not given an opportunity to pay the debt prior to plaintiffs filing the case. After filing defendant reviewed their records, admitted they made an error, and offered to correct the error; this was refused by plaintiffs. Defendant has agreed to credit plaintiffs' account in the amount of $ 35, case dismissed with prejudice.

THE COURT: Okay, Now I see that.

MR. MORRIS: And, I think that...

THE COURT: There's some confusion in the...

MR. MORRIS: I agree, Your Honor, that there is a confusion, but I would argue that this is essentially what the

true judgment is, and not what the docket says per se.

THE COURT: Okay. All right.

MR. MORRIS: But, either way the plaintiffs appealed it at that point saying they should've been given court costs, and interest. At this point, the fact that it's still pending...

THE COURT: Okay.

MR. MORRIS: The $ 35 has been paid; I just don't see a reason why...

THE COURT: All right, All right. Now, it's your chance.

MS SHAHIN: Okay. Thank you, Your Honor.

THE COURT: Now, is it correct that in this case it was dismissed below?

MS. SHAHIN: This is what I want to address, this is correct. On the certified copy, which I attached to my appeal, it says that the judgment was entered in the Justice of the Peace Court in favor of Nina and Mazen Shahin. And this is correct, the original decision of the judge, it states all the facts that we allegedly didn't give appropriate notice. That they offer to pay, and some other facts, which has never...

THE COURT: Well, was it ultimately dismissed by the Justice of the Peace?

MS. SHAHIN: It was dismissed.

THE COURT: Okay.

MS. SHAHIN: And all these facts, which she claims in her decision, have never been proved in her court.

THE COURT: Well, you sued for $ 35; they credited the $35 in the court below, didn't they?

MS. SHAHIN: The credited only for $35 after the Court, after this hearing, not before.

THE COURT: Okay.

MS. SHAHIN: So, it means for three months...

THE COURT: But before you came here they credited it?

MS. SHAHIN: No. Oh, before I came here?

THE COURT: Yes.

MS. SHAHIN: Yes.

THE COURT: All right.

MS. SHAHIN: But, it was after the court, and the whole premise of our appeal is that we have been denied the right to

present our case in the Court of Peace. We have the right to present, because what the Judge claim, and what the defendant/appellee claim is not true.

THE COURT: Well, you did present your case, he just ruled against you.

MS SHAHIN: No, we didn't present, that's the whole point. She didn't allow us to question the witness, she didn't allow us to present any proofs. As a matter of fact, we even didn't receive the response of the defendant, so when we entered her room we didn't even know what they claimed, so we could not even address their claims, because we didn't know what the claims were, so we're denied due process...

THE COURT: Well, okay, what's your second suit about? You've got two suits; it's about something different than this?

MS SHAHIN: What happened when we deposited our...

THE COURT: Answer my question, what's the second suit about?

MS. SHAHIN: That is what I'm trying to explain.

THE COURT: All right.

MS. SHAHIN: To explain the confusion what is this all about. We deposited our own check from one Delaware bank to another, from PNC Bank to Delaware Credit Union. PNC bank was a local branch, so it was miscoded by the Delaware Credit Union as not a local check, when in fact it was a local check. So according to their procedures a local check was supposed to have a hold only of three days, they put a hold of seven days.

THE COURT: Okay.

MS. SHAHIN: And in the course of those three days they bounced two transactions, and charged twice $35.

THE COURT: They charged two separate...

MS. SHAHIN: Two separate occasions although it was triggered by the same check, on two separate occasions, and they claim that we did not notify them when, in fact, we made every effort to notify them of the fact, they just didn't want to listen.

THE COURT: Okay.

MS, SHAHIN: And, the Judge didn't allow us to hear the case, so all this in the motion for summary judgment, all these claims are false, all these claims, in fact, are not true. So this is why we claim that there could be no summary judgment when there is such a wide dispute on the matters of fact, which were not heard in the Justice of Peace Court, because there was no practical hearing.

When we entered the Court, Judge listened and communicated with the defendant only without giving us opportunity even to say a word, and then she dismissed the case, so we didn't have the opportunity to present our part…

THE COURT: Okay.

MS. SHAHIN: …of the evidence or claims.

THE COURT: That may be. Were two separate hearings on the two different cases?

MS. SHAHIN: Yes, there were two separate, and we appealed both of them, and this is actually the second incident, although it was processed by time in the court system as the first. The second one…

THE COURT: What are you claiming in the second case that you're not claiming in the first case?

MS. SHAHIN: In the second case we claim plus all the court of appeal fees.

THE COURT: The one I'm not...

MS. SHAHIN: And all the interest on all the money.

THE COURT: You are really claiming the same thing in the second case you're claiming in the first case, aren't you?

MS. SHAHIN: Nor necessarily. We claim only $ 38 of the court fees in Justice of the Peace Court, plus the interest on the money.

THE COURT: Okay.

MS. SHAHIN: There I claim everything plus court claim fees...

THE COURT: In this case you're claiming court costs plus interest; the other case you're claiming what, court costs, interest and what?

MS. SHAHIN: And any other amounts which Court finds equitable and necessary.

THE COURT: Any other amount for what?

MS. SHAHIN: Penalty for false claims, for perjury.

THE COURT: Well, you have to prove that. It seems to me you're claiming the same thing in both cases.

Have you completed your statement to the Court in this case?

MS. SHAHIN: Yeah, Your Honor, yeah, I want to say additionally that we practically in the Court of Peace were denied our constitutional rights of equal protection, and due process, and this is why we want to hear the case *de novo* in the Court of Common Pleas.

THE COURT: All right. Okay. Thank you.

Anything further Mr. Morris?

MR. MORRIS: Just briefly, Your Honor. I don't really know what the heck happened in J.P. Court, all I know is $ 35 has been paid since September 6th.

If you heard the trial today, on those issues, you would have to find on behalf of the defendant at that point, because...

THE COURT: Is my decision on this case going to be *res judicata* on the other one? It sounds like it would be?

MR. MORRIS: I think, it is, I think, and I apologize to the Court not bringing that file, but I do think there was something a little bit different from this one, and in fact that one just came up recently, but I think ultimately...

THE COURT: I can't determine what it is, it seems like they're suing for the same thing.

MR. MORRIS: It seems like it to me, Your Honor, but factually it's a little different, because there was some issue about a three day period, and whether certain checks should have been cleared.

In this one it's all about $ 35 to their account, and quite frankly that $ 35 has been paid over three months ago.

THE COURT: Okay. In the case that remains open is 0113, I'll hand that file back to the clerk so we're clear. In the motion for summary judgment is for 0074.

And the question is does the plaintiffs'

claim state a claim for which relieve can be granted. There must be a principal sum due, or shown to be due before you can get interest, and court costs. In other words, the plaintiffs are going to have to demonstrate from the pleadings, that there is still $ 35 due in order to recover interest, and court costs.

The $ 35 has been paid, there's nothing before the Court to indicate that there is a sum due still, at least in this case, from the Delaware Credit Union to these plaintiffs.

MS. SHAHIN: But they paid it three...

THE COURT: Keep quiet, I'm rendering my decision.

You don't get court costs and interest unless you have a claim from which relief can be granted. There is no claim for which relief can be granted in this case. The motion for summary judgment is granted.

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## CERTIFICATE OF REPORTER

I, Linda A. Lavender, Official Court Reporter of the Court of Common Pleas, State of Delaware, do hereby certify that the foregoing is an accurate transcript of the testimony adduced and proceedings had, as monitored and electronically recorded, in the Court of Common Pleas, in and for Kent County, in the case therein stated, as the same remains of record in the Court of Common Pleas, Kent County at Dover, Delaware.

WITNESS my hand this 27th day of January 2006 A.D.

"/s/ Linda Lavender"

Certificate No. 172-PS
Expiration Date: Permanent

**IN THE JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE, IN AND FOR KENT COUNTY COURT NO. 16**

**COURT ADDRESS:**
**480 BANK LANE**
**DOVER DE 19904**

**TRANSCRIPT OF JUDGEMENT AND EXECUTION FOR TRANSFER TO KENT COUNTY COURT OF COMMON PLEAS**

**PLAINTIFF:**

NINA MAZEN SHAHIN
103 SHINNECOCK RD.
DOVER DE 19901
302-678-1805

**CIVIL ACTION NO.**J0507004516
JUDGMENT: $ 35.00

**Clock in Stamp**: 2005 SEP 21 A 9:55
COURT OF COMMON PLEAS

v.

**DEFENDANT:**
DE FEDERAL CREDIT UNION
150 EAST WATER STREET
DOVER DE 19901
302-739-4496

ON SEPTEMBER 6, 2005 JUDGMENT BY TRIAL WAS ENTERED BY JUSTICE OF THE PEACE COURT NO. 16 IN FAVOR OF NINA MAZEN SHAHIN AND AGAINST FEDERAL CREDIT UNION FOR $ 35.00.

**Round Stamp** with
Inscription on circumference:
*JUSTICE OF THE PEACE COURT*
STATE OF DELAWARE

This is to certify that this is a true and correct transcript of the judgment and Constable's return of execution

"/s/_____"
Justice of the Peace /Court Official
Date: SEPTEMBER 20, 2005

J.P. Civ. Form No. 24 (Rev. 6/15/00)

JUSTICE OF PEACE CIVIL DOCKET – COURT 16
AS OF 09/20/2005



CIVIL ACTION NO. J0507004516

FILED 06/28/2005

DEBT ACTION
NON-ARBITRATION
NON-JURY TRIAL

*** L I T I G A N T S ***

NINA M SHAHIN

---------VS---------

DE FEDERAL CREDIT UNION

| EVENT NO. | DATE | DOCKET TEXT |
|---|---|---|
| 2 | 07/06/2005 | FILING DATE: 06/28/2005 FEE: 30.00 RELIEF AMT: 35.00 PERSONAL PROPERTY VALUE: OTHER AMT: 15.00 PRE INT RATE: PRE INT AMT: POST INT. RATE: OTHER-SUBPOENA FOR LISA BREWER, BRANCH MANAGER |
| 3 | 07/06/2005 | NOTICE(S) GENERATED: 07/06/2005 |
| 4 | 07/06/2005 | FORMS GIVEN TO: CONSTABLE COURT 16 DATE: 07/07/2005 |
| 5 | 07/18/2005 | RETURN OF SERVICE POSITIVE FOR AND DATE SIGNED FOR: DE FEDERAL CREDIT UNION – 07/14/2005 SIGNED BY IF DIFFERENT THAN NAME ABOVE: JANE WASHINGTON |
| 6 | 07/29/2005 | CASE UPDATED: 07/29/2005 07/28/05 – PER JUDGE DARLING LETTER |

SENT TO PLAINTIFF STATING: THE COURT IS REQUIRING THAT WITHIN 15 DAYS YOU SUPPLY THE COURT WITH THE FOLLOWING INFORMATION CONCERNING CASE #'S J0507004516, AND J0506073516: THE AMOUNTS OF THE CHECKS, CHECK NUMBERS AND EXACT DATES IN WHICH YOUR ACCOUNT WAS DEBITED FOR NON-SUFFICIENT FUNDS. FAILURE TO SUPPLY THE COURT WITH THE ABOVE INFORMATION BY 8/12/05 WILL RESULT IN THE CASES BEING DISMISSED.

7 08/15/2005 TRIAL SCHEDULED: TUESDAY 09/06/2005 01:00 PM TO BE HEARD WITH CA # J0507004516

8 08/15/2005 NOTICE(S) GENERATED 08/15/2005

9 09/06/2005 09/06/05 A DEBT ACTION IS FILED WHEN A PARTY OWES MONEY AND REFUSED OR DOES NOT PAY. IN THIS CASE THE DEFENDANT WAS NEVER GIVEN OPPORTUNITY TO PAY THE DEBT PRIOR TO PLAINTIFF FILING CASE.. AFTER FILING DEFENDANT REVIEWED THEIR RECORDS AND ADMITTED THEY HAD MADE AN ERROR AND OFFERED TO CORRECT- THE ERROR. THIS WAS REFUSED BY PLAINTIFF. DEFENDANT HAS AGREED TO CREDIT



PLAINTIFF ACCOUNT IN THE AMOUNT OF #

35.00. CASE DISMISSED WITH PREJUDICE.

10 09/16/2005 JUDGMENT MAILED: 09/06/2005
APPEAL PROCEDURES INCLUDED

11 09/09/2005 CASE UPDATED: 09/09/2005
09/07/05 – RECV'D LETTER OF COMPLAINT FROM NINA SHAHIN CONCERNING JUDGES DECISION IN THIS CASE.
09/07/05/-SENT LETTER TO PLAINTIFF STATING:
JUDICIAL OPERATIONS MGR DOES NOT REVIEW THE CASE DECISIONS OF THE JP JUDGES, NOR DO I DIRECT THEM HOW ANY INDIVIDUAL CASE SHOULD BE HANDLED.
INCLUDED IN THE LETTER OF NAMES AND ADDRESSES OF DCM AND CHIEF MAGISTRATE FOR FILING COMPLAINTS.
STATED ALSO THAT APPEAL PROCEDURES WERE INCLUDED WITH THE ORDER.

12 09/20/2005 APPEAL – CASE APPEALED TO COURT OF COMMON PLEAS
TRANSCRIPT REQUESTED BY: NINA SHAHIN
DATE TRANSCRIPT ISSUES: 09/20/05
FEE PAID: $ 10.00
DOCKET ABOVE IS A TRUE AND CORRECT COPY OF ALL ENTRIES ON THIS CASE.
JUDGE:

**Round Stamp** with
Inscription on circumference:
*JUSTICE OF THE PEACE COURT*
STATE OF DELAWARE

The same signature of the Court Official as on the first page was administered on this page within the last paragraph

IN THE SUPREME COURT OF THE STATE OF DELAWARE

| | | |
|---|---|---|
| MAZEN AND NINA SHAHIN, | § | |
| | § | |
| Appellants Below-Appellants, | § | No. 472, 2006 |
| | § | |
| | § | Court Below—Superior Court |
| v. | § | of the State of Delaware, |
| | § | in and for Kent County |
| DELAWARE FEDERAL CREDIT UNION, | § | C.A. No. 06A-01-004 |
| | § | |
| | § | |
| Appellee Below-Appellee. | § | |
| | § | |

Submitted: November 20, 2006
Decided: January, 24 2007

Before **BERGER, JACOBS,** and **RIDGELY,** Justices.

**ORDER**

This 24th day of January 2007, after careful consideration on the appellants' opening brief and the appellee's motion to affirm, the Court finds it manifest that the judgment below should be affirmed on the basis of the Superior Court's well-reasoned decision, dated August 3, 2006, which affirmed the Court of Common Pleas' order granting summary judgment to appellee. The Superior Court did not err in affirming the Court of Common Pleas' judgment that there was no genuine issue of material fact and that appellee was entitled to

judgment as a matter of law.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

IN THE SUPREME COURT OF THE STATE OF DELAWARE

| | | |
|---|---|---|
| MAZEN AND NINA SHAHIN, | § | |
| | § | |
| Appellants Below-Appellants, | § | No. 472, 2006 |
| | § | |
| | § | |
| v. | § | Court Below--Superior Court of |
| | § | the State of Delaware, in and for |
| DELAWARE FEDERAL CREDIT UNION, | § | Kent County |
| | § | C.A. No. 06A-01-004 |
| | § | |
| Appellee Below-Appellee. | § | |
| | § | |

Submitted: January 29, 2007
Decided: February 9, 2007

Before **STEEL**, Chief Justice, **HOLLAND, BERGER, JACOBS** and **RIDGELY**, Justices, constituting the Court *en Banc*.

**ORDER**

This 9th day of February 2007, it appears to the court that:

(1) On January 29, 2007, appellants filed a motion for rehearing *en Banc* of this Court's Order dated January 24, 2007. *See* Supr. Ct. R. 4(f).

(2) The Court has carefully considered the motion for rehearing *en Banc* and concludes that the motion is without merit and should be denied.

NOW, THEREFORE, IT IS ORDERED that the motion for rehearing *en Banc* is **DENIED.**

BY THE COURT:

/s/ Jack B. Jacobs
Justice

**IN THE COURT OF COMMON PLEASE FOR THE STATE OF DELAWARE IN AND FOR KENT COUNTY**

| | | |
|---|---|---|
| **MAZEN AND NINA SHAHIN, APPELLANTS** | * | **CA NO.: 05-09-0074 AP** |
| **V.** | * | |
| **DE FEDERAL CREDIT UNION, APPELLEE** | * | |

**NOTICE OF MOTION FOR SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that Defendant Delaware Federal Credit Union attached Motion for Summary Judgment will be presented to the Court at a date which is convenient for the Court.

LIGUORI, MORRIS & YIENGST

Upside down clock in stamp:
2005 NOV: 8 P 3:42
COURT OF COMMON PLEAS

BIG SQUIGGLE FOR SIGNATURE

Gregory A. Morris, Esquire
46 The Green
Dover, DE 19901
(302)678-9900
Attorney for Defendant

**IN THE COURT OF COMMON PLEASE FOR THE STATE OF DELAWARE IN AND FOR KENT COUNTY**

| | | |
|---|---|---|
| **MAZEN AND NINA SHAHIN, APPELLANTS** | * | **CA NO.: 05-09-0074 AP** |
| **V.** | * | |
| **DE FEDERAL CREDIT UNION, APPELLEE** | * | |

**MOTION FOR SUMMARY JUDGMENT**

1. The above referenced case is an appeal from the Justice of the Peace Court 16 which was filed as a debt action. Plaintiff's complaint states that they are entitled to only Court costs and interest as a result of the deposit which was made to Plaintiff's account on June 20, 2004. the deposit did not clear in the appropriate time manner because Delaware Federal Credit Union had placed an extended hold on the deposit. Defendant was not made aware of this problem until the Plaintiff filed an action in the Justice of the Peace Court # 7.
2. The Defendant immediately agreed to correct the error which was

refused by Plaintiff. As a matter of fact, Defendant credited Plaintiff's account in the amount of $ 35.00 on September 6, 2005.

3. The Court below was faced with the same fact pattern and when it learned that the Defendant had agreed to credit Plaintiff's account in the amount of $ 35.00, the Court dismissed the complaint. (See J.P. 16 Decision attached as Exhibit "A"). The Plaintiff now appeals because it is now seeking Court costs and interest.

4. Plaintiff's Complaint lacks legal merit since their account has already been reimbursed $ 35.00 as of September 6, 2005. As such, there is no basis to be awarded Court costs and interest since they are merely proceeding with this litigation for a malicious purpose.

WHEREFORE, Defendant would respectfully request that this Court grant Summary Judgment in this matter since Plaintiff is not entitled to any additional relief.

LIGOURI, MORRIS & YIENGST
The same squiggle
Gregory A. Morris, Esquire
46 The Green
Dover, DE 19901
(302)678-9900
Attorney for Defendant

DATE: 11/18/2005

**IN THE COURT OF COMMON PLEASE FOR THE STATE OF DELAWARE IN AND FOR KENT COUNTY**

| | | |
|---|---|---|
| **MAZEN AND NINA SHAHIN, APPELLANTS** | * | **CA NO.: 05-09-0074AP** |
| **V.** | * | |
| **DE FEDERAL CREDIT UNION, APPELLE** | * | |

**AFFIDAVIT**

STATE OF DELAWARE :
: SS
COUNTY OF KENT :

BE IT REMEMBERED that on this 16 day of NOV, A.D. 2005, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, Rene Thompson on behalf of Delaware Federal Credit Union, the Defendant in the foregoing, known to me personally to be such, who being duly sworn according to law, did depose and say that the facts herein contained in the Motion for Summary Judgment are true and

correct to the best of her knowledge.

"/s/_____"
Renee Thompson

**SWORN TO AND SUBSCRIBED** before me the day and year aforesaid.

The same squiggle as the attorney's
**NOTARY PUBLIC**

DATE (BLANK)

**IN THE COURT OF COMMON PLEASE FOR THE STATE OF DELAWARE IN AND FOR KENT COUNTY**

| | | |
|---|---|---|
| **MAZEN AND NINA SHAHIN, APPELLANTS** | * | **CA NO.: 05-09-0074 AP** |
| | * | |
| | * | |
| | * | |
| **V.** | * | |
| | * | |
| **DE FEDERAL CREDIT UNION, APPELLEE** | * | |
| | * | |
| | * | |

**CERTIFICATE OF SERVICE**

I the undersigned do hereby certify that I have caused copies of the foregoing **Motion for Summary Judgment** to be served upon the following:

Mazen and Nina Shahin

103 Shinnecock Rd.

Dover, DE 19904

**LIGUORI, MORRIS & YIENGST**

BY: The same squiggle as everywhere else
**GREGORY A. MORRIS, ESQUIRE**
46 The Green
Dover, Delaware 19901
(302)678-9900
Attorney for Defendant

Dated: 11/18/2005

HJE Journal Voucher 09/06/05 03:12PM 22316 21 211 RLT BR:

39382-75 SHAHIN/MAZEN M EFF DT:09/06/05
MT: 35.00 TO GOLDEN ADVANTAGE
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ONDITIONS AND RESTRICTIONS APPLY.

MAZEN M SHAHIN
103 SHINNECOCK RD
DOVER DE 19904

DELAWARE FEDERAL CREDIT UNION DATE:[0
:[ ] TRAN CODE:[ ] PARAMETERS:[

Delaware
FEDERAL CREDIT UNION
www.delawarefcu.org

RENEÉ L. THOMPSON, CUCE, N
Compliance Officer

150 E. Water Street
Dover, DE 19901

Phone (302) 698-1038
Fax (302) 698-1638
E-mail rthompson@delawarefcu.

www.delawarefcu.org

e following fee has been placed on
your account per Justice of Pe
rt decision 9/6/05.

Renee